IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.820 OF 2004

Office notes, office Memoranda of Coram, appearances, Court's orders or directions & Registrar's orders	Court's or Judge's Orders

Shri A.S.Shitole, APP for the State.

CORAM: R.S.Mohite, J.
DATE : 13th January, 2006.

P.C.:

1. This is an appeal filed by the State impugning the judgment and order passed by the Judicial Magistrate First Class, Malegaon on 13.02.2004 acquitting the accused for the offences punishable under sections 85 of Bombay Prohibition Act. The prosecution case was that the police constable was found behaving in disorderly manner under the influence of alcohol on 18.04.1996, at about 15.15 hours, at Control Room, Malegaon. About six police officers were examined. Some of them claimed

to have heard the Respondent giving abuses but were unaware whether he was under the influence of alcohol, while others mentioned that he was under the influence of alcohol but did not hear exact words of abuses. As far as the medical evidence is concerned, the Dr. has not taken urine sample. As far as the collection of blood sample is concerned, it is found that sample was not taken in accordance with the mandatory provisions of the Bombay Prohibition (Medical Examination & Blood Test) Rules, 1959.

2. In view of the above, view taken is a possible view. In the circumstances, leave is refused and consequently, the appeal stands dismissed.

(R.S.Mohite, J.)